

REMARKS

Claims 14, 18-21, and 23-30 constitute the pending claims in the present application. Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the prior Office Action. Applicants have amended the claims solely in an effort to expedite prosecution and without prejudice to Applicants' right to pursue cancelled subject matter in continuing applications.

The Examiner is advised that the following applications contain subject matter that may be related to the pending claims in the present application.

Application Serial Number	Attorney Docket Number
10/309,204	ZIPH-008-103
11/894,591	ZIPH-008-104
11/894,729	ZIPH-009-103
11/169,407	ZIPH-010-101
11/151,459	ZIPH-011-101
11/986,844	ZIPH-021-101

In particular, Applicants would like to draw the Examiner's attention to the fact that substantive examination may have occurred in these applications, and Applicants invite the Examiner to review any Office Actions that have issued or will issue in these cases. At the Examiner's request, we will provide copies of any Office Actions and/or responses to Office Actions that have issued in these applications. By bringing these applications to the Examiner's attention, Applicants do not waive the confidentiality provisions of 35 U.S.C. 122.

Rejection based on 35 U.S.C. 102(e). Claims 14, 18-21 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Lebaut in view of Dupont. Applicants traverse this rejection to the extent it is maintained over the claims as amended.

The Office Action states that Lebaut teaches compounds having the same structure as the compounds of the pending claims, wherein the compounds of Lebaut have antiasthmatic,

antiallergic, and immunosuppressant/immunomodulating action and can be used to treat diseases such as psoriasis, rheumatoid disorders, and chronic polyarthritis. The Office Action further states that Lebaut is silent with respect to inhibiting angiogenesis; however, administration of the compounds of Lebaut will naturally result in inhibition of angiogenesis even though the mechanism of action is not recognized by Lebaut. Finally, the Office Action states that Dupont is provided as supporting evidence that patients having psoriasis are in need of angiogenesis inhibition.

Applicants have amended the claims such that they no longer recite the inhibition of angiogenesis, thereby rendering this rejection moot. Applicants therefore respectfully request reconsideration and withdrawal of this rejection.

Rejection based on 35 U.S.C. 103(a). Claims 14, 18-21, 24-25, 27-28, and 30 are rejected under 35 U.S.C. 103(a) as being obvious over Lebaut in view of Fiszer-Maliszewska. Applicants traverse this rejection to the extent it is maintained over the claims as amended.

The Office Action states that Lebaut teaches compounds having the same structure as the compounds of the pending claims. The Office Action further states that Lebaut is silent with respect to treating multidrug-resistant tumors, inhibiting angiogenesis, or inhibiting metastasis. Finally, the Office Action states that it would have been obvious to one of ordinary skill in the art to use immunomodulatory compounds of Lebaut to inhibit the growth and metastasis of tumors since Fiszer-Maliszewska teaches that immunomodulation can control the metastatic spread of tumor cells.

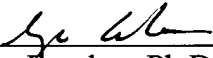
Applicants assert that Application 10/686,809 and Patent 6,008,231 were, at the time the invention of Application 10/686,809 was made, owned by Asta Medica Aktiengesellschaft. Applicants respectfully direct the Examiner's attention in particular to Reel/Frame 009032/0659 and Reel/Frame 019720/0655. Applicants respectfully request reconsideration and withdrawal of this rejection.

Double patenting. Claims 14, 18-21, 24-25, 27-28, and 30 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 11-14 and 16-23 of copending Application No. 10/309,204. Applicants will address this rejection when it is no longer provisional.

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. ZIPH-009-102 from which the undersigned is authorized to draw.

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Respectfully submitted,

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